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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,461	09/23/2003	Armin Faller	32140-192302	9489
26694	7590	05/27/2005	EXAMINER	
VENABLE LLP P.O. BOX 34385 WASHINGTON, DC 20045-9998			BUI, LUAN KIM	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 05/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/667,461	Applicant(s) FALLER ET AL.	
	Examiner Luan K Bui	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/23/03 & 1/23/04</u> . | 6) <input type="checkbox"/> Other: ____ |

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-14 and 16-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, the phrase “that is equivalent to the thickness of the knitting tool ... in the slot (16, 16’, 17, 17’)” define the holder in reference to the knitting tool which is undefined and has not been positively claimed rendering the claims vague and indefinite because it is not clear what structural limitations applicant intends to encompass with such language. In claim 5, the phrase “are retained resiliently” is vague and indefinite because it has no clear meaning. In claim 7, the phrases “the clamping leg” and “the back portion”(two places) lack proper antecedent basis. The phrases “with end portions (50, 51) that are adapted to the end portions (52, 52) of the clamping legs” in claim 16 and “the slots (16, 16’) have a length that differs from the length of the slots (17, 17’)” in claim 18 are confusion and indefinite because the claims rely on the reference characters since the use of reference characters is to be considered as having no effect on the scope of the claim (see MPEP 608.01(m)). In claim 19, the phrase “that matches the pitch of needle channels ... are intended” define the holder in reference to the knitting machine which is undefined and has not been positively claimed rendering the claims vague and indefinite because it is not clear what structural limitations applicant intends to encompass with such language.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 15 and 19-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Colton (2,944,662). To the extent that the Examiner can determine the scope of the claims, Colton discloses a holder (12) comprising a transport rail with slots for holding blades/knitting tools (10a) and the slots disposed transversely to the longitudinal direction of the transport rail. Colton further discloses a closure part/casing (1, 2) which fits over the transport rail.

5. Claims 1-7 and 11-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Ohuchi et al. (5,090,607; hereinafter Ohuchi'607). To the extent that the Examiner can determine the scope of the claims, Ohuchi'607 discloses a holder (70) comprising a transport rail (74) with slots (72) for holding rivets and the slots disposed transversely to the longitudinal direction of the transport rail (Figures 1a-1c). The slots of Ohuchi'607 are capable of holding knitting tools. As to claims 2-3, Ohuchi'607 discloses the transport rail comprises a striplike back portion (74) and two clamping legs (71). As to claims 5 and 14, Ohuchi'607 discloses the holder made of plastic material which is considered equivalent to the clamping legs are retained resiliently and flexibly as claimed. As to claim 7, Ohuchi'607 discloses the slots beginning at a closure edge of the clamping legs extend toward the back portion of the transport rail and the slots end at a distance from the back portion.

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6. Claims 1-3, 5, 6 and 8-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Kenyon (5,497,882). To the extent that the Examiner can determine the scope of the claims, Kenyon discloses a holder (10) comprising a transport rail (11) with slots (17) for holding packets (20) and the slots disposed transversely to the longitudinal direction of the transport rail (Figures 1-2). The slots of Kenyon are capable of holding knitting tools. As to claims 2-3, Kenyon discloses the transport rail comprises a striplike back portion (11) and two clamping legs (15, 15). As to claims 5 and 14, Kenyon discloses the holder made of plastic material (column 2, line 42) which is considered equivalent to the clamping legs are retained resiliently and flexibly as claimed. As to claims 8 and 9, Kenyon discloses that at least one of the clamping legs has a portion (15) that diverges away from the other clamping leg (Figure 2) and the portion defined an obtuse angle with the remaining clamping leg.

7. Claims 1-3, 6, 11, 15, 16 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Chow (5,036,975). To the extent that the Examiner can determine the scope of the claims, Chow discloses a holder (20, one side of the case) comprising a transport rail with slots (21, along the side walls of the holder only) for holding tools (30) and the slots disposed transversely to the longitudinal direction of the transport rail (Figure 2). The slots of Chow are capable of holding knitting tools. As to claims 2-3, Chow discloses the transport rail comprises a striplike back portion and two clamping legs (one on each side wall). As to claim 15 and 16, Chow further discloses a closure part (20, the other side of the case) which fits over the transport rail

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and the closure part includes two clamping legs (one of each side wall) with end portions that are adapted to the end portions of the clamping legs of the holder.

8. Claims 1, 15, 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Manosalva et al. (5,307,924; hereinafter Manosalva'924). To the extent that the Examiner can determine the scope of the claims, Manosalva'924 discloses a holder (14) comprising a transport rail with slots (38 and slot defines cutout 28) for holding tools (45, 50) and the slots disposed transversely to the longitudinal direction of the transport rail (Figures 1-4). The slots of Manosalva'924 are capable of holding knitting tools. As to claims 15 and 18, Manosalva'924 discloses a closure part (11) which fits over the transport rail and the slots (38) have a length that differs from the length of the slots (defined by cutouts 28).

Allowable Subject Matter

9. Claim 17 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is (571) 272-4552. If in receiving this Office Action, it is apparent to Applicant that certain documents are missing from the record for example copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Ms. Errica Miller at (571) 272-4370.

Any inquiry of a general nature or relating to the status of this application should be directed to the Customer Service whose telephone number is (703) 306-5648. Facsimile correspondence for this application should be sent to (703) 872-9306 for Formal papers and After Final communications.

lkb
May 25, 2005

A handwritten signature in black ink, appearing to read 'Luan K. Bui', with a stylized flourish at the end.

Luan K. Bui
Primary Examiner